

DECISION

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

FILE: B-214918

DATE: May 22, 1984

MATTER OF: Surgical Instrument Company of America

DIGEST:

1. GAO does not review affirmative determinations of responsibility except in limited circumstances.
2. Whether contractor performs in accordance with all the terms and conditions of the contract is a matter of contract administration, which is the responsibility of the procuring agency and not GAO.

Surgical Instrument Company of America (SICOA) protests the award of a contract to Marbex, Inc., under solicitation No. DLA120-84-B-0033 issued by the Defense Logistics Agency (DLA). SICOA argues that although Marbex has certified that it will supply specialty metals that have been procured domestically or through qualifying foreign sources, Marbex is actually procuring specialty steel from nonqualifying sources. Also, SICOA contends that Marbex's certification concerning the "Place of Performance" and the percentage of performance at that location is false and was done solely to qualify the firm for labor surplus area (LSA) consideration.

DLA's acceptance of Marbex's bid resulted in an obligation on the part of the bidder to perform the contract in accordance with all its terms and conditions. To the extent SICOA is alleging that Marbex cannot meet its legal obligation under the specialty metals and the place of performance clauses, this allegation involves a matter of the bidder's responsibility. This Office will not review an agency's affirmative determination of responsibility which is a prerequisite to any award unless the protester alleges fraud on the part of contracting officials or misapplication of definitive responsibility criteria. NGC Investment and Development Corp., B-209982, January 13, 1983, 83-1 CPD 36; See also, Uffner Textile Corporation, B-205050, December 4, 1981, 81-2 CPD 443.

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Furthermore, whether Marbex will perform the contract in accordance with its terms is a matter of contract administration, which is the responsibility of the contracting agency and not within the purview of GAO's Bid Protest Procedures. Consolidated Devices, Inc., B-211534, May 19, 1983, 83-1 CPD 537.

We dismiss the protest.

Harry R. Van Cleve
Harry R. Van Cleve
Acting General Counsel